

**ASSEMBLY BILL**

**No. 419**

**Introduced by Assembly Member Koretz**

February 15, 2005

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An act to amend Section 6753 of the Family Code, and to amend Section 1308.9 of the Labor Code, relating to artistic employment contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 419, as introduced, Koretz. Artistic employment contracts: minors.

(1) Existing law regulates certain contracts for artistic employment between an unemancipated minor and 3rd parties, including employment as an actor, dancer, musician, comedian, singer, stuntperson, voice-over artist, or sports player. Existing law provides for the establishment of a trust for the purpose of preserving for the minor a portion of the minor's gross earnings, as defined. Existing law requires the establishment of that trust within 7 business days after the contract is signed by the parties.

This bill would instead allow for the establishment of that trust within 30 business days after the first day of employment under the contract.

(2) Existing law requires the written consent of the Labor Commissioner for the employment of a minor under 16 years of age in artistic employment, as specified. Existing law voids that consent if the minor's parent or guardian fails to attach a copy of the trustee's statement within a specified timeframe.

This bill would extend that timeframe to correspond with the establishment of the trust, as described above.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6753 of the Family Code is amended to  
2 read:

3 6753. (a) The trustee or trustees shall establish a trust  
4 account, that shall be known as a Coogan Trust Account,  
5 pursuant to this section at a bank, savings and loan institution,  
6 credit union, brokerage firm, or company registered under the  
7 Investment Company Act of 1940, that is located in the State of  
8 California, unless a similar trust has been previously established,  
9 for the purpose of preserving for the benefit of the minor the  
10 portion of the minor's gross earnings pursuant to paragraph (1) of  
11 subdivision (b) of Section 6752 or pursuant to paragraph (1) of  
12 subdivision (c) of Section 6752. The trustee or trustees shall  
13 establish the trust pursuant to this section within ~~seven~~ 30  
14 business days after the ~~minor's contract is signed by the minor,~~  
15 ~~the third-party individual or personal services corporation~~  
16 ~~(loan-out company), and the employer~~ first date of employment  
17 of the minor under the contract.

18 (b) Except as otherwise provided in this section, prior to the  
19 date on which the beneficiary of the trust attains the age of 18  
20 years or the issuance of a declaration of emancipation of the  
21 minor under Section 7122, no withdrawal by the beneficiary or  
22 any other individual, individuals, entity, or entities may be made  
23 of funds on deposit in trust without written order of the superior  
24 court pursuant to paragraph (7) of subdivision (b) or paragraph  
25 (5) of subdivision (c) of Section 6752. Upon reaching the age of  
26 18 years, the beneficiary may withdraw the funds on deposit in  
27 trust only after providing a certified copy of the beneficiary's  
28 birth certificate to the financial institution where the trust is  
29 located.

30 (c) The trustee or trustees shall, within 10 business days after  
31 the minor's contract is signed by the minor, the third-party  
32 individual or personal services corporation (loan-out company),  
33 and the employer, prepare a written statement under penalty of  
34 perjury that shall include the name, address, and telephone  
35 number of the financial institution, the name of the account, the

number of the account, the name of the minor beneficiary, the name of the trustee or trustees of the account, and any additional information needed by the minor's employer to deposit into the account the portion of the minor's gross earnings prescribed by paragraph (1) of subdivision (b) or paragraph (1) of subdivision (c) of Section 6752. The trustee or trustees shall attach to the written statement a true and accurate photocopy of any information received from the financial institution confirming the creation of the account, such as an account agreement, account terms, passbook, or other similar writings.

(d) The trust shall be established in California either with a financial institution that is and remains insured at all times by the Federal Deposit Insurance Corporation (FDIC), the Securities Investor Protection Corporation (SIPC), or the National Credit Union Share Insurance Fund (NCUSIF) or their respective successors, or with a company that is and remains registered under the Investment Company Act of 1940. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to ensure that the funds remain in trust, in an account or other savings plan insured in accordance with this section, or with a company that is and remains registered under the Investment Company Act of 1940 as authorized by this section.

(e) Upon application by the trustee or trustees to the financial institution or company in which the trust is held, the trust funds shall be handled by the financial institution or company in one or more of the following methods:

(1) The financial institution or company may transfer funds to another account or other savings plan at the same financial institution or company, provided that the funds transferred shall continue to be held in trust, and subject to this chapter.

(2) The financial institution or company may transfer funds to another financial institution or company, provided that the funds transferred shall continue to be held in trust, and subject to this chapter and that the transferring financial institution or company has provided written notification to the financial institution or company to which the funds will be transferred that the funds are subject to this section and written notice of the requirements of this chapter.

(3) The financial institution or company may use all or a part of the funds to purchase, in the name of and for the benefit of the minor, (A) investment funds offered by a company registered under the Investment Company Act of 1940, provided that if the underlying investments are equity securities, the investment fund is a broad-based index fund or invests broadly across the domestic or a foreign regional economy, is not a sector fund, and has assets under management of at least two hundred fifty million dollars (\$250,000,000); or (B) government securities and bonds, certificates of deposit, money market instruments, money market accounts, or mutual funds investing solely in those government securities and bonds, certificates, instruments, and accounts, that are available at the financial institution where the trust fund or other savings plan is held, provided that the funds shall continue to be held in trust and subject to this chapter, those purchases shall have a maturity date on or before the date upon which the minor will attain the age of 18 years, and any proceeds accruing from those purchases shall be redeposited into that account or accounts or used to further purchase any of those or similar securities, bonds, certificates, instruments, funds, or accounts.

SEC. 2. Section 1308.9 of the Labor Code is amended to read:

1308.9. (a) If the Labor Commissioner provides written consent pursuant to Section 1308.5 for the employment of a minor under a contract described in Section 6750 of the Family Code, that consent shall be void ~~after the expiration of 10 business days from the date written consent was granted, unless it is attached to~~ *if* a true and correct copy of the trustee's statement evidencing the establishment on behalf of the minor of a "Coogan Trust Account" pursuant to Chapter 3 (commencing with Section 6750) of Part 3 of Division 11 of the Family Code *is not attached to that consent within 30 business days after the first date of employment of the minor under the contract.* If the written consent is attached to a true and correct copy of that trustee's statement, the written consent shall be valid for a six-month period.

(b) A person may not apply for the written consent of the Labor Commissioner to employ the same minor under a contract described in Section 6750 of the Family Code more than once in any six-month period. If written consent is issued by the Labor

1 Commissioner for the employment of the same minor more than  
2 once within any six-month period, the earliest dated written  
3 consent shall be valid and any other written consent issued  
4 during that six-month period shall be void.

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